

1 STATE OF NEW YORK : NASSAU COUNTY
2 SUPREME COURT : PART 37

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK,

5 -against-

INDICTMENT NO.
202N/11

6 ULISES BONILLA,

7 Defendant.

NYSID NO.
5853179M

8 -----X

9 262 Old Country Road
10 Mineola, N.Y. 11501

11 May 15, 2012

12 MINUTES OF SENTENCE

13 B E F O R E: HON. GEORGE R. PECK
14 Acting Supreme Court Justice

15 A P P E A R A N C E S:

16 HON. KATHLEEN M. RICE
17 District Attorney of Nassau County
18 BY: ZEENA ABDI, ESQ.,
19 Assistant District Attorney,
20 Of Counsel, for the People

21 DANIEL MILLMAN, ESQ.
22 Attorney for the Defendant
23 316A Main Street
24 Roslyn, New York 11576

25 ALSO PRESENT: Kimberly Hernandez,
Official Spanish Interpreter

Cindy Kaye-Fink
Senior Court Reporter

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CLERK OF COURT
NASSAU COUNTY
JUL 13 AM 11:29
2014

1 THE CLERK: This is indictment 202N of 2011,
2 Ulises Bonilla. You are Ulises Bonilla?

3 THE DEFENDANT: Yes.

4 THE CLERK: Let the record reflect the
5 presence of the Spanish interpreter, who is required for
6 the defendant.

7 Counsel, please note your appearances for the
8 record.

9 MS. ABDI: For the People, Zeena Abdi,
10 assistant district attorney. Good morning, your Honor.

11 MR. MILLMAN: For the defendant, Daniel
12 Millman, 316A Main Street, Roslyn, New York.

13 THE CLERK: Mr. Bonilla, you appear here with
14 your attorney for sentence under indictment 202N of
15 2011.

16 Counsel, is your client ready for sentence?

17 MR. MILLMAN: Yes, your Honor.

18 THE CLERK: Do the People wish to be heard?

19 MS. ABDI: Yes, your Honor. The People are
20 also advising the Court that the deceased's daughter,
21 Nancy Villatoro, would also like to speak at sentencing
22 before your Honor renders his ultimate sentence in this
23 case.

24 It is the People's position at this time, the
25 People are asking that your Honor sentence the defendant

1 to the maximum penalty allowable by law for each count
2 for which he was convicted.

3 I know your Honor was the trial judge in this
4 case and that your Honor is fully familiar with all the
5 facts surrounding this case, and what I think from the
6 People's perspective that stands out in this case is the
7 ultimate destruction that the defendant, Ulises Bonilla,
8 caused on the Villatoro family.

9 THE COURT: And his own.

10 MS. ABDI: And his own family, yes, your
11 Honor, by his actions in September of 2010. He
12 ultimately destroyed a family and it is for these
13 reasons, because of the defendant's behavior during the
14 span of four or five days in which he continually
15 escalated a conflict between the father of Jennifer
16 Villatoro, and he damaged not only Jennifer Villatoro,
17 but Armando Villatoro and completely destroyed a family
18 in a very violent act in which Mr. Villatoro was stabbed
19 multiple times in front of his own house, in front of
20 his own children.

21 It's for these reasons, your Honor, that the
22 People are asking for the crimes for which he was
23 convicted, which include murder in the second degree and
24 rape in the first degree, that he be sentenced to the
25 maximum allowable on all the charges for which he's

1 convicted.

2 Your Honor, at this time I would ask if Nancy
3 Villatoro can say a few words to the Court regarding
4 this case.

5 THE COURT: We have discussed this issue in
6 chambers and ordinarily, there is a statutory procedure
7 that must be gone through in order for a victim or a
8 victim's family to give such an impact statement.
9 However, we knew that this was a possibility and there
10 was no objection for this to occur. Agreed,
11 Mr. Millman?

12 MR. MILLMAN: Yes. I was provided with notice
13 concerning this, your Honor.

14 THE COURT: Very good.

15 MS. VILLATORO: I would like to start off
16 saying good morning to everybody in the courtroom, to my
17 family and to Ulises's family. I want to say that we
18 feel sorry for his family because they have to go
19 through all his mistakes that he did and that Ulises, he
20 was our friend back then, but now he did to us a lot of
21 things. He did mess up our friendship. He messed up
22 our family father, he took our father away. We miss our
23 father now. Now we don't have him by our side.

24 He has his family and Ulises honestly killed
25 himself by being in jail for the rest of his life. He

1 honestly just should have took it and spoken to my
2 father about it. His family has to understand that he
3 killed our father, his father is still alive. They keep
4 trying to start problems with us, trying to say that
5 it's our fault, we're not the victims. Our family,
6 we're the victims. They should understand that his
7 mistakes were killing our father and he shouldn't have
8 never done that. He's a grown man. I believe he's 22
9 or 23. He should have spoken to my father about it and
10 I believe his sister needs to honestly try to stop
11 calling us names every time she sees us. She has to
12 understand herself that her brother killed our father
13 and that's not our fault. And neither is it theirs.
14 They have to understand it's all his fault and he should
15 learn from his mistakes and not only that, all we ask
16 for is for justice and for him to serve his time and for
17 him to know that we don't hate him, none of us hate him.
18 We just hope that he learns from his mistakes and knows
19 that what he did was very wrong and that next time he
20 doesn't kill an honest man for no reason.

21 He was the one with the cause of my sister's
22 rape, because my sister is only 12 years old now and she
23 is suffering because of that. All my family is
24 suffering because of the pain that we have in our heart.
25 And we don't deserve this, because my dad was a very

1 great man to us. We see him as a very happy man and
2 that they took us -- they took him away from us and now
3 I hope he deserves time and I hope he realizes what he
4 does. And not only that, I hope he does understand what
5 he did was very wrong to our family, because my family
6 deserves way much better. And I just wish him good luck
7 in life and I hope he learns from his mistakes the first
8 time. That's it.

9 THE COURT: Mr. Millman?

10 MR. MILLMAN: Yes.

11 THE COURT: Thank you.

12 MR. MILLMAN: Your Honor, first, before I
13 begin, I would just like to point out that here on
14 behalf of my client is numerous members of his family,
15 you know, including his mother and father, Reina and
16 Leonidas, his sisters, Diana and Reina, as well as
17 Zeida, his girlfriend, and her brother, and they are all
18 here in support of Ulises, to show their support for
19 him.

20 Your Honor, first I just wanted to point out
21 that I understand that the Court has received a
22 probation report, a presentence report, and I recognize
23 that in that report, though my client was interviewed,
24 and it's my position that he completely cooperated with
25 them in every respect, I recognize that when he spoke

1 with them, he indicated that he is not -- he did not
2 commit those crimes. He has maintained his innocence
3 from the beginning and continues to maintain his
4 innocence.

5 I understand that we are here for sentence
6 today, your Honor. But again, I would just hope that if
7 the Court concludes that the presentence report is in
8 any way negative, that it not base that conclusion on
9 the fact that he maintains his innocence, because I
10 don't believe, from my review of it, that it indicated
11 he failed to cooperate in any manner and I don't believe
12 that it was negative in any respect, based upon my
13 review of it, your Honor.

14 Additionally, I've been asked to make a couple
15 of statements just on behalf of some of his family
16 members who have asked me to say certain things. His
17 mother, Reina, has asked me to just point out to your
18 Honor that, you know, he is a good person, has been a
19 good person throughout his life. He has been good to
20 his family. He has been a hard-working individual. I'm
21 advised by the family that they have never seen him
22 violent and that he had always worked. He always helped
23 to support the household.

24 I've been asked by Diana, his sister, and I'm
25 sure that all the family members concur in that as well,

1 that, you know, he has been a good brother to her. He's
2 a good uncle to his nephews, he's a good father to his
3 child, who is five years old, Andrea.

4 That although the Court has heard testimony
5 and evidence concerning certain incident that occurred,
6 incidents, that the family hopes that the Court not just
7 perceive this solely through the limited telescope of
8 what was testified to in this trial, but rather also
9 through the eyes of what the family is indicating, that
10 he is a caring, loving individual and they say that with
11 the understanding that the crimes for which he has been
12 convicted are obviously, and it need not to be said,
13 very, very serious, clearly.

14 And I also can say that the family, all the
15 members of the family, their heart goes out to the
16 Villatoro family and, you know, whether or not they
17 realize this, this is said with a great deal of
18 sincerity.

19 I would also like to say that my heart, my
20 client's heart, our hearts go out to this family and
21 that is meant sincerely and I hope that they recognize
22 that.

23 There is no down playing the significance of
24 the loss that this family has suffered. It's a
25 tremendous loss and it's a tragedy, there's no question

1 about it, and I do not and would not ever try to
2 downplay that, your Honor.

3 I've also be asked to point out by Zeida
4 Bonilla, his girlfriend, that Ulises has been actively
5 involved as a father and spends a lot of time with his
6 five-year-old daughter Andrea, and that he also has
7 helped to support Zeida, as well as his daughter, and
8 Zeida's other daughter, Adora, Alicia and her son, AB,
9 they are nine and eleven years old, and you know, the
10 family has asked your Honor to show as much leniency as
11 you possibly can under those circumstances, your Honor.

12 I would also like to just point out a couple
13 of things that I would ask your Honor to take into
14 account. No amount of punishment, as a practical
15 matter, no amount of punishment could possibly undue the
16 harm that has occurred here, your Honor.

17 As your Honor is aware, the defense filed a
18 motion to set aside the verdict. I understand that your
19 Honor has decided that motion against my client. I
20 recognize that, so I am addressing the Court, based upon
21 the allegations that the jury has found him guilty of,
22 but I do want to stress that my client has and continues
23 to maintain his innocence and that our position remains
24 the same in terms of the appropriateness and accuracy of
25 the jury's verdict, your Honor.

1 The minimum for the murder, your Honor, is
2 itself, quite a heavy penalty, it's 15 years to life.
3 You know, there is no reason, your Honor, I would
4 submit, that he should not receive the minimum sentence
5 and when we hear the word minimum, your Honor, there's a
6 tendency to react and there is a tendency perhaps, as
7 some of the people in this courtroom, to react as if
8 it's not being taken seriously, but again, 15 years to
9 life, it is a life sentence. And additionally, this is
10 not a minimum sentence for all crimes, this is a minimum
11 sentence for murder. The legislature has adapted this
12 as the minimum for a murder.

13 THE COURT: When you talk about this
14 particular area, can you tell me how you show mitigating
15 circumstances to the extent to reduce a sentence of 25
16 to life to 22 to life, to 18 to life or to 15 to life?
17 How do you show that when the victim suffered 12 stab
18 wounds?

19 MR. MILLMAN: Well, I would start off by
20 addressing that in each and every murder there is always
21 going to be a suffering of wounds that inflict death by
22 definition. Not down playing that, by any means, but --

23 THE COURT: I'm mainly concerned about the
24 acts of the defendant in causing those wounds.

25 MR. MILLMAN: Okay. Well, and I will address

1 that. As you know, your Honor, again, I just stress
2 that my client has maintained his innocence and our
3 position is the same regarding the accuracy of the
4 jury's verdict.

5 That having been said, your Honor, the answer
6 to my question is that this was an encounter that
7 occurred on the street. It was an encounter that, I
8 believe the evidence showed, there was evidence to
9 support the fact that Mr. Villatoro had gone there as
10 well, knowing that this was going to be a fight with my
11 client.

12 And under the circumstances, my client's age,
13 the fact that he has no prior criminal convictions, you
14 know, I believe that those are mitigating circumstances,
15 your Honor. This was clearly a situation in which it
16 was the end product of a dispute that escalated into
17 something completely out of hand.

18 THE COURT: We all know that at times that
19 people settle their problems by quote, duking it out,
20 unquote. That does not necessarily mean that one of the
21 People involved in that kind of conduct should secrete a
22 weapon on him to use it, if he's getting the worst of
23 the deal. Go ahead.

24 MR. MILLMAN: And your Honor, no one is
25 suggesting that that is appropriate. Again, as I said,

1 our position is that that is not what the evidence
2 showed, but I do have to address those allegations and I
3 recognize that.

4 THE COURT: I understand.

5 MR. MILLMAN: I will address that and say
6 again, this was an encounter that took place on the
7 street. They both voluntarily submitted to the
8 encounter.

9 I would also point out, your Honor, that, you
10 know, as for the request for the maximum, entirely
11 inappropriate, your Honor. You know, the justifications
12 for the maximum, I mean, the fact that someone has died
13 is no doubt a tragedy, again, I can't stress that
14 enough, but that is always the case in a murder.

15 So again, the question has to be, I think, if
16 your Honor is going to impose something more than the
17 minimum for the murder, the question has to be not why
18 this incident or this crime is more serious than other
19 non-violent crimes, like a larceny or something else,
20 but rather why this crime is more serious than other
21 murders, because the range from the minimum to the
22 maximum applies to murder and in all cases it will
23 involve a tragedy, in all cases there will be someone
24 that died and in all cases it will be violent. Again,
25 we don't downplay that, but I think if your Honor is

1 going to impose more than the minimum, I would submit
2 that there should be a reason to distinguish this
3 particular murder as more serious than many other
4 murders, and I submit that under these circumstances,
5 this particular case calls for the minimum. Again,
6 minimum for a murder, which is still an extremely heavy
7 sentence.

8 And additionally, your Honor, as I indicated,
9 I would ask your Honor to consider the circumstances of
10 this particular case. I do believe, as I indicated,
11 that the substantial doubt casted by the record
12 regarding his guilt, you know, nobody saw a knife, no
13 one saw him even making an overhead stabbing motion, not
14 a shred of physical evidence links him to the knife or
15 the stabbing. In fact, the physical evidence, as I
16 argued, pointed to others.

17 Your Honor, just also with regard to the rape,
18 you know, I understand what the jury has concluded. I
19 do believe that there was significant credibility issues
20 with the victim in terms of the fact that she had given
21 numerous inconsistent statements to the police on very
22 key facts. There was not a shred of physical evidence
23 that linked my client to this rape and in fact, three
24 witnesses, one of whom was a completely objective
25 witness, placed my client at another location at the

1 time that the prosecution said this took place.

2 Your Honor was there to observe her demeanor
3 and again, I say the following without intending in any
4 way to downplay the fact that any rape in the first
5 degree is serious, but even according to the testimony
6 of the victim herself, the degree of penetration, while
7 it would satisfy the statutory definition of
8 penetration, was just at the surface, even by her own
9 testimony, and by her own testimony, there was no
10 violence, hitting, anything of that nature.

11 Again, I recognize that consent is -- there is
12 no consent because of her age, but I do think that
13 certainly, this is clearly different than on many other
14 first degree rapes. And again, in terms of the minimum
15 versus the maximum, I certainly believe that the only
16 appropriate sentence on the rape would be the minimum.

17 And the reason for that is that again, the
18 legislature has given the minimum and maximum. If this
19 case, under these circumstances, does not warrant a
20 minimum sentence, what first degree rape scenario could
21 warrant a minimum? Again, no allegation of hitting,
22 striking, anything. The entry just barely satisfied the
23 statutory definition, just the surface. Again, I don't
24 say it to downplay the seriousness of it, Judge, I'm
25 talking in terms of the sentence, minimum, maximum and I

1 clearly think under these circumstances, your Honor, the
2 case screams out for the minimum on the rape,
3 undoubtedly.

4 There is sometimes a tendency to characterize
5 anyone who has been convicted of a crime like this as a
6 hardcore violent criminal with a propensity to repeat
7 acts and again, as I indicated, he has never been
8 convicted of any crime and never engaged in a violent
9 act.

10 And additionally, you know, I understand that
11 sometimes the fire is fueled by -- and I'm not
12 suggesting that your Honor is going to let this
13 influence you, but sometimes there is an outcry for
14 tough sentences just for the purpose of reducing crime,
15 without regard to the circumstances of the particular
16 offense.

17 Again, your Honor presided over this trial and
18 your Honor has observed the demeanor of the witnesses,
19 observed the trial, and you know, I ask that your
20 Honor -- and I believe that your Honor will look at this
21 not just in a vacuum of what the actual title of the
22 crime was that he was convicted of, but also consider
23 the circumstances, the circumstances of the crime, what
24 was revealed during the course of the trial, and his
25 age, the lack of any prior criminal record. I think

1 while obviously, the Court has and must consider the
2 seriousness of the charges, I ask that those not be the
3 only things looked at, your Honor.

4 And just a couple of more things, your Honor.
5 I would just ask your Honor to consider the fact that
6 even the very minimum on the murder charge and on the
7 rape charge will, you know, result in my client being
8 incarcerated for an extraordinary long period of time.
9 And even with a minimum, it would be a 15-to-life
10 sentence, meaning that if a parole board would
11 determinate after 15 years that he either was not
12 rehabilitated, he had not done anything in prison to
13 warrant him being considered, you know, to be released
14 on parole, that they would keep him in.

15 So I would ask your Honor to consider all of
16 the circumstances here and I would also ask your Honor
17 to consider the fact that, you know, there are people
18 who depend upon him, including a daughter that he has,
19 she's five years old. And you know, I would ask your
20 Honor not to ignore the good, you know, that he has
21 done.

22 Again, I'm not suggesting that it would erase
23 the allegations here, if, in fact, they did occur, as
24 the jury indicated, but rather that it's just a factor
25 that should be considered.

1 One more thing, your Honor. I just -- there
2 is a tendency to sometimes equate protestations of
3 innocence with a lack of remorse and again, I want to
4 point out that my client's heart and my heart and his
5 family's heart truly goes out to this family and
6 everything that they are suffering through, but my
7 client has maintained his innocence and, you know,
8 again, I don't believe that this Court should equate
9 that with any lack of remorse whatsoever.

10 And in a moment, my client does want to say a
11 couple of things to the Court, but before he does so, I
12 just ask your Honor to consider all the circumstances
13 here and impose the minimum for each of these crimes,
14 and make them concurrent. And if your Honor is not
15 inclined to make them concurrent, at the very least,
16 impose the minimum for each of these offenses. I do
17 feel the circumstances here warrant that, and so, your
18 Honor, I'm going to at this time ask that my client be
19 given an opportunity to be heard.

20 THE COURT: Sir, do you wish to say anything?

21 THE DEFENDANT: (English.) Yes, I do.

22 THE COURT: Go ahead.

23 THE DEFENDANT: (English.) I want to say sorry
24 for the victim's family, for all the pain they felt. I
25 still maintain my innocence.

1 THE COURT: Just one second. You are speaking
2 to me in English and there are some nuances at this
3 particular time that I don't understand, so if you have
4 no objection, I would like you to speak through your
5 interpreter, so that I am absolutely sure that I am
6 understanding it correctly.

7 THE DEFENDANT: (English.) All right.

8 (Through the interpreter.) I want to say I'm
9 sorry to the family. I still maintain that I am
10 innocent. I'm sorry that I fought with the victim, but
11 I never hurt him. And I am not upset with his daughter,
12 with the little one, because I know she has a reason why
13 she's lying. But I believe that maybe sometime in the
14 future, she will come out and tell the truth. And I'm
15 sorry to my family as well for what they're going
16 through.

17 And I'm still innocent, no matter what
18 happens. Only time will tell what's going to happen.
19 That's it.

20 THE COURT: The act of sexual penetration was
21 testified to by the victim, as well as corroborated by
22 medical evidence. You were identified by the victim who
23 knew you. You were also identified by two young men who
24 knew you, coming out of the women's bathroom with the
25 victim. The evidence against you on the rape charge was

1 overwhelming.

2 I don't believe you when you say you are
3 innocent. I believe that you are in a state of abject
4 denial.

5 The crime of murder was committed in a vicious
6 and intentional manner. You could have walked away
7 after a single stab wound or multiple stab wounds and
8 perhaps the victim would have survived, since only two
9 of the wounds were fatal. Your intent was clear. You
10 destroyed a number of family, including your own. Why
11 you wanted to have some sexual relationship with a
12 ten-year-old is beyond me, and at the same time,
13 maintain your allegiance to your wife and family is mind
14 boggling.

15 It's ordered and adjudged by this Court for
16 the crime of murder in the second degree, a Class A-1
17 felony, of which you stand convicted after trial, on
18 count 1 of the indictment, 202N of 2010, that you,
19 Ulises Bonilla, are hereby sentenced to an indeterminate
20 -- to an indeterminate term of imprisonment and the
21 maximum of such sentence to be life and the minimum of
22 such sentence to be 25 years, and that you be committed
23 to the custody of the New York State Department of
24 Correctional Services at Downstate Correctional
25 Facility, Fishkill, for imprisonment for the term of

1 that sentence, until released in accordance with the
2 law.

3 A surcharge of \$300, a \$25 Crime Victims'
4 Assistance fee and \$50 DNA surcharge are imposed on this
5 count.

6 Counsel, I assume you want that by civil
7 judgment?

8 MR. MILLMAN: Yes, your Honor.

9 THE COURT: Civil judgment. Not to be taken
10 from inmate funds.

11 For the second count, it is further ordered
12 that for the crime of rape in the first degree, a Class
13 B violent felony, of which you stand convicted after
14 trial on the second count of this indictment, that you
15 serve a determinate sentence of imprisonment of seven
16 and a half years to be followed by 20 years of
17 post-release supervision. This sentence is to be served
18 consecutively to the sentence under the murder charge.

19 On the third count, for the crime of sexual
20 abuse in the first degree, a Class D violent felony, you
21 are sentenced to four years, to be followed by ten years
22 post-release supervision.

23 For the fourth count, for the crime of sexual
24 abuse in the first degree, a Class D violent felony, you
25 are sentenced to four years, to be followed by ten years

1 of post-release supervision.

2 For the crime of criminal possession of a
3 weapon in the fourth degree, a Class A misdemeanor, of
4 which you stand convicted under the fifth count, that
5 you be given a definite sentence of one year in the
6 Nassau County Correctional Center.

7 For the seventh count of endangering the
8 welfare of a minor, of which you stand convicted after
9 trial, that you be given a definite sentence of one year
10 in the Nassau County Correctional Center.

11 You are ordered to pay a \$50 SORA fee and
12 additional sex fee of \$1,000, also by civil judgment.

13 The sentences imposed -- the sentences under
14 the first count and the second count are to run
15 consecutive with each other. The remaining counts are
16 to run concurrent.

17 THE CLERK: Mr. Bonilla, you have the right to
18 appeal from this sentence and these proceedings. If you
19 wish to appeal, you must file a notice of appeal with
20 the clerk of this court within 30 days. If you cannot
21 afford to hire a lawyer or the minutes of these
22 proceedings, you may make application to the Appellate
23 Division which will, upon being satisfied that you
24 cannot afford the same, order that an attorney be
25 appointed and the minutes provided without any charge to

1 you. Your lawyer is directed by the Court to advise you
2 in full and take the necessary steps indicated by you in
3 this regard.

4 MS. ABDI: Judge, just the indictment number
5 is 202N of 2011. I believe it might have been said
6 2010, but the indictment number is 2011.

7 THE COURT: That's corrected.

8 * * *

9 I, Cindy Kaye-Fink, Senior Court Reporter, hereby
10 certify that the foregoing is a true and correct transcript
11 of the within proceedings.

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Cindy Kaye-Fink
Senior Court Reporter